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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,869	08/06/2003	Gary Michael Kayajanian		7616

7590            06/06/2006

GARY MICHAEL KAYAJANIAN  
514 HOLYOKE LANE  
LAKE WORTH, FL 33467

EXAMINER
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ANDERSON, JAMES D

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

20060519

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Included in this correspondance are copies of the following:

- 1) Blank form 1149 (Information Disclosure Statement)
- 2) Section of M.P.E.P. dealing with Information Disclosure Statements
- 3) Fee Schedule
- 4) Interview Summary

NOTE: This communication DOES NOT RESET the 3-month time period for reply set forth in the Office Action mailed 5/4/2006.

*Ardin H. Marschel 5/28/06*  
**ARDIN H. MARSCHEL**  
**SUPERVISORY PATENT EXAMINER**

*[Signature]*  
James D. Anderson  
Examiner  
AU 1614

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,869	KAYAJANIAN, GARY MICHAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	James D. Anderson	1614	

All participants (applicant, applicant's representative, PTO personnel):

(1) James D. Anderson.

(3) Gary Kayajanian - Applicant.

(2) Ardin Marshel - AU 1614 SPE.

(4) \_\_\_\_\_.

Date of Interview: 19 May 2006.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1-19.

Identification of prior art discussed: Prior art of record.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Pending claims (1-19) were discussed in general terms with regard to the Office Action mailed 5/04/2006 as well as a general discussion of the application with regard to the data sets used and their analysis and interpretation with regard to the present application.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### **37 CFR §1.2 Business to be transacted in writing.**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

**Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.**

Substitute for form 1449A/PTO

## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

**(Use as many sheets as necessary)**

### Sheef

of

***Complete if Known***

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

## **U. S. PATENT DOCUMENTS**

## **FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				

Examiner Signature		Date Considered	
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**\*EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.**

Substitute for form 1449B/PTO				<i>Complete if Known</i>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				<i>Application Number</i>	
				<i>Filing Date</i>	
				<i>First Named Inventor</i>	
				<i>Art Unit</i>	
				<i>Examiner Name</i>	
<i>(Use as many sheets as necessary)</i>				<i>Attorney Docket Number</i>	
Sheet		of			

#### **NON PATENT LITERATURE DOCUMENTS**

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.**  
This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

through (i) revised, 69 FR 52604, Aug. 27, 2004, effective Oct. 1, 2004; revised, 70 FR 3880, Jan. 27, 2005, effective Dec. 8, 2004; paras. (f) and (s) revised, 70 FR 30360, May 26, 2005, effective July 1, 2005]

**§ 1.17 Patent application and reexamination processing fees.**

(a) Extension fees pursuant to § 1.136(a):

(1) For reply within first month:

By a small entity (§ 1.27(a))..... \$60.00

By other than a small entity..... \$120.00

(2) For reply within second month:

By a small entity (§ 1.27(a))..... \$225.00

By other than a small entity..... \$450.00

(3) For reply within third month:

By a small entity (§ 1.27(a))..... \$510.00

By other than a small entity..... \$1,020.00

(4) For reply within fourth month:

By a small entity (§ 1.27(a))..... \$795.00

By other than a small entity..... \$1,590.00

(5) For reply within fifth month:

By a small entity (§ 1.27(a))..... \$1,080.00

By other than a small entity..... \$2,160.00

(b) For fees in proceedings before the Board of Patent Appeals and Interferences, see § 41.20 of this title.

(c) [Reserved]

(d) [Reserved]

(e) To request continued examination pursuant to § 1.114:

By a small entity (§ 1.27(a))..... \$395.00

By other than a small entity..... \$790.00

(f) For filing a petition under one of the following sections which refers to this paragraph: ..... \$400.00

§ 1.53 (e)—to accord a filing date.

§ 1.57 (a)—to accord a filing date.

§ 1.182 —for decision on a question not specifically provided for.

§ 1.183 —to suspend the rules.

§ 1.378 (e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.

§ 1.741 (b)—to accord a filing date to an application under § 1.740 for extension of a patent term.

(g) For filing a petition under one of the following sections which refers to this paragraph: ..... \$200.00

§ 1.12 —for access to an assignment record.

§ 1.14 —for access to an application.

- § 1.47 —for filing by other than all the inventors or a person not the inventor.
- § 1.59 —for expungement of information.
- § 1.103 (a)—to suspend action in an application.
- § 1.136(b)—for review of a request for extension for extension of time when the provisions of § 1.136 (a) are not available.
- § 1.295 —for review of refusal to publish a statutory invention registration.
- § 1.296 —to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 —for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c)—for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 —for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 —for expedited handling of a foreign filing license.
- § 5.15 —for changing the scope of a license.
- § 5.25 —for retroactive license.

(h) For filing a petition under one of the following sections which refers to this paragraph..... \$130.00

- § 1.19 (g)—to request documents in a form other than provided in this part.
- § 1.84 —for accepting color drawings or photographs.
- § 1.91 —for entry of a model or exhibit.
- § 1.102(d)—to make an application special.
- § 1.138(c) —to expressly abandon an application to avoid publication.
- § 1.313 —to withdraw an application from issue.
- § 1.314 —to defer issuance of a patent.

(i) Processing fee for taking action under one of the following sections which refers to this paragraph:..... \$130.00

§ 1.28(c)(3) —for processing a non-itemized fee deficiency based on an error in small entity status.

- § 1.41 —for supplying the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications.
- § 1.48 —for correcting inventorship, except in provisional applications.
- § 1.52(d) —for processing a nonprovisional application filed with a specification in a language other than English.
- § 1.53(b)(3) —to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).
- § 1.55 —for entry of late priority papers.
- § 1.71 (g)(2)—for processing a belated amendment under § 1.71(g).
- § 1.99(e) —for processing a belated submission under § 1.99.
- § 1.103(b) —for requesting limited suspension of action, continued prosecution

application for a design patent (§ 1.53(d)).

§ 1.103(c) —for requesting limited suspension of action, request for continued examination (§ 1.114).

§ 1.103(d) —for requesting deferred examination of an application.

§ 1.217 —for processing a redacted copy of a paper submitted in the file of an application in which a redacted copy was submitted for the patent application publication.

§ 1.221 —for requesting voluntary publication or republication of an application.

§ 1.291(c)(5)—for processing a second or subsequent protest by the same real party in interest.

§ 1.497(d )—for filing an oath or declaration pursuant to 35 U.S.C. 371(c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.

§ 3.81 —for a patent to issue to assignee, assignment submitted after payment of the issue fee.

(j) For filing a petition to institute a public use proceeding under § 1.292.....  
\$1,510.00

(k) For filing a request for expedited examination under § 1.155(a)..... \$900.00

(l) For filing a petition for the revival of an unavoidably abandoned application under 35 U.S.C. 111, 133, 364, or 371, for the unavoidably delayed payment of the issue fee under 35 U.S.C. 151, or for the revival of an unavoidably terminated reexamination proceeding under 35 U.S.C. 133 (§ 1.137(a)):

By a small entity ( § 1.27(a))..... \$250.00

By other than a small entity..... \$500.00

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity ( § 1.27(a))..... \$750.00

By other than a small entity..... \$1,500.00

(n) For requesting publication of a statutory invention registration prior to the mailing of the first examiner 's action pursuant to § 1.104..... \$920.00 reduced by the amount of the application basic filing fee paid.

(o) For requesting publication of a statutory invention registration after the mailing of the first examiner 's action pursuant to § 1.104..... \$1,840.00 reduced by the amount of the application basic filing fee paid.

(p) For an information disclosure statement under § 1.97(c) or (d) or a submission under § 1.99..... \$180.00

(q) Processing fee for taking action under one of the following sections which refers to this paragraph..... \$50.00

§ 1.41 —to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by § 1.51(c)(1) in a provisional application

§ 1.48 —for correction of inventorship in a provisional application.

§ 1.53(c)(2) —to convert a nonprovisional application filed under § 1.53(b) to a

(v) Compression: uncompressed data.

[46 FR 2612, Jan. 12, 1981; para. (b)(1), 54 FR 47519, Nov. 15, 1989, effective Jan. 16, 1990; revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (b) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000 (effective date corrected, 65 FR 78958, Dec. 18, 2000; para. (c) introductory text revised, 70 FR 54259, Sept. 14, 2005, effective Sept. 14, 2005]

## INFORMATION DISCLOSURE STATEMENT

### § 1.97 Filing of information disclosure statement.

- (a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.
- (b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:
  - (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
  - (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
  - (3) Before the mailing of a first Office action on the merits; or
  - (4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.
- (c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:
  - (1) The statement specified in paragraph (e) of this section; or
  - (2) The fee set forth in § 1.17(p).
- (d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:
  - (1) The statement specified in paragraph (e) of this section; and
  - (2) The fee set forth in § 1.17(p).
- (e) A statement under this section must state either:
  - (1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
  - (2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the

information disclosure statement.

- (f) No extensions of time for filing an information disclosure statement are permitted under § 1.136. If a *bona fide* attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time may be given to enable full compliance.
- (g) An information disclosure statement filed in accordance with section shall not be construed as a representation that a search has been made.
- (h) The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).
  - (i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

[48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (d) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a)- (d) revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (c)-(e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (a) through (e) and (i) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

#### **§ 1.98 Content of information disclosure statement.**

- (a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.
  - (1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:
    - (i) The application number of the application in which the information disclosure statement is being submitted;
    - (ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and
    - (iii) A heading that clearly indicates that the list is an information disclosure statement.
  - (2) A legible copy of:
    - (i) Each foreign patent;
    - (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
    - (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
    - (iv) All other information or that portion which caused it to be listed.

(3)

- (i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.
- (ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

(b)

- (1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.
- (2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.
- (3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.
- (4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.
- (5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

(c) When the disclosures of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one of the patents or publications as specified in paragraph (a) of this section may be submitted without copies of the other patents or publications, provided that it is stated that these other patents or publications are cumulative.

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

- (1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and
- (2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

[42 FR 5594, Jan. 28, 1977; para. (a) 48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a)(2) and (b) revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (e) added, 68 FR 38611, June 30, 2003, effective July 30, 2003; paras. (a) and (c) revised and para. (e) removed, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]